

Senate Bill No. 1128

Passed the Senate September 9, 1999

Secretary of the Senate

Passed the Assembly September 3, 1999

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 14105.26 to the Welfare and Institutions Code, relating to health services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1128, Speier. Medi-Cal: provider reimbursement.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

The Medi-Cal program provides for a special methodology of reimbursement of disproportionate share hospitals for the provision of inpatient hospital services.

Existing law generally defines a disproportionate share hospital as a hospital that has disproportionately higher costs, volume, or services related to the provision of services to Medi-Cal or other low-income patients than the statewide average.

Existing law provides for supplemental reimbursement of eligible disproportionate share providers for funding capital projects.

This bill would authorize a distinct part of an acute care hospital providing specified services and meeting certain requirements to receive, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, supplemental reimbursement for capital projects as provided under the bill.

The people of the State of California do enact as follows:

SECTION 1. Section 14105.26 is added to the Welfare and Institutions Code, to read:

14105.26. (a) Each eligible facility, as described in paragraph 2 of subdivision (b), may, in addition to the rate of payment that the facility would otherwise receive for skilled nursing services, receive supplemental



Medi-Cal reimbursement to the extent provided in this section.

(b) (1) Projects eligible for supplemental reimbursement shall include any new capital projects for which final plans have been submitted to the appropriate review agency after January 1, 2000, and before July 1, 2001. For purposes of this section, “capital project” means the construction, expansion, replacement, remodeling, or renovation of an eligible facility, including buildings and fixed equipment. A “capital project” does not include the provision of furnishings or of equipment that is not fixed equipment.

(2) A facility shall be eligible only if the submitting entity had all of the following additional characteristics during the 1998 calendar year:

(A) Provided services to Medi-Cal beneficiaries.

(B) Was a distinct part of an acute care hospital providing skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. For the purposes of this section, “acute care hospital” means the facilities defined in subdivisions (a) or (b), or both, of Section 1250 of the Health and Safety Code.

(C) Had not less than 300 licensed skilled nursing beds.

(D) Had an average skilled nursing Medi-Cal patient census of not less than 80 percent of the total skilled nursing patient days.

(E) Was owned by a county or city and county.

(c) (1) An eligible facility seeking to qualify for supplemental reimbursement shall submit documentation to the department regarding debt service on revenue bonds or other financing instruments used for financing the capital project.

(2) The department shall confirm in writing project eligibility under this section.

(d) (1) Capital projects receiving funding shall include only the upgrading or construction of buildings and equipment to a level required by currently accepted medical practice standards, including projects designed to correct Joint Commission on Accreditation of Hospitals

and Health Systems, fire and life safety, seismic, or other related regulatory standards.

(2) Capital projects receiving funding may expand service capacity as needed to maintain current or reasonably foreseeable necessary bed capacity to meet the needs of Medi-Cal beneficiaries after giving consideration to bed capacity needed for other patients, including unsponsored patients.

(3) Supplemental reimbursement shall only be made for capital projects, or for that portion of capital projects that provide skilled nursing services, and that are available and accessible to patients eligible for services under this chapter.

(e) An eligible facility's supplemental reimbursement for a capital project qualifying pursuant to this section shall be calculated and paid as follows:

(1) For any fiscal year for which the facility is eligible to receive supplemental reimbursement, the facility shall report to the department the amount of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(2) For each fiscal year in which an eligible facility requests reimbursement, the department shall establish the ratio of skilled nursing Medi-Cal days of care provided by the eligible facility to total skilled nursing patient days of care provided by the eligible facility. The ratio shall be established using data obtained from audits performed by the department, and shall be applied to the corresponding fiscal year of debt service on the revenue bonds or other financing instruments issued to finance the capital project.

(3) The amount of debt service that will be submitted to the federal Health Care Financing Administration for the purpose of claiming reimbursement for each fiscal year shall equal the amount determined annually in paragraph (1) multiplied by the percentage figure determined in paragraph (2).

(4) The supplemental reimbursement to an eligible facility shall be equal to the amount of federal financial



participation received as a result of the claims submitted pursuant to paragraph (2) of subdivision (j).

(5) In no instance shall the total amount of supplemental reimbursement received under this section combined with that received from all other sources dedicated exclusively to debt service exceed 100 percent of the debt service for the capital project over the life of the loan, revenue bond, or other financing mechanism.

(6) A facility qualifying for and receiving supplemental reimbursement pursuant to this section shall continue to receive reimbursement until the qualifying loan, revenue bond, or other financing mechanism is paid off, and as long as the facility meets the requirements of paragraph (3) of subdivision (d).

(7) The supplemental Medi-Cal reimbursement provided by this section shall be distributed under a payment methodology based on skilled nursing services provided to Medi-Cal patients at the eligible facility, either on a per diem basis, a per discharge basis, or any other federally permissible basis. The department shall seek approval from the federal Health Care Financing Administration for the payment methodology to be utilized, and shall not make any payment pursuant to this section prior to obtaining that approval.

(8) The supplemental reimbursement provided by this section shall not commence prior to the date upon which the hospital submits to the department a copy of the certificate of occupancy for the capital project.

(f) (1) It is the Legislature's intent in enacting this section to provide a funding source for a portion of the construction costs of eligible facilities without any expenditure from the state General Fund.

(2) The state share of the amount of the debt service submitted to the federal Health Care Financing Administration for purposes of supplemental reimbursement shall be paid with county-only funds and certified to the state as provided in subdivision (g). Any amount of the costs of the capital project that are not



reimbursed by federal funds shall be borne solely by the eligible facility.

(3) Prior to receiving any funding through this section, an eligible facility shall demonstrate its ability to cover all of the anticipated costs of construction, including those not reimbursed through federal funding.

(g) The county or city and county, on behalf of any eligible facility, shall do all of the following:

(1) Certify, in conformity with the requirements of Section 433.51 of Title 42 of the Code of Federal Regulations, that the claimed expenditures for the capital project are eligible for federal financial participation.

(2) Provide evidence supporting the certification as specified by the department.

(3) Submit data, as specified by the department, to determine the appropriate amounts to claim as expenditures qualifying for financial participation.

(4) Keep, maintain, and have readily retrievable, such records as specified by the department in order to fully disclose reimbursement amounts to which the eligible facility is entitled, and any other records required by the federal Health Care Financing Administration.

(h) The department may require that any county or city and county seeking supplemental reimbursement under this section enter into an interagency agreement with the department for the purpose of implementing this section.

(i) All payments received by an eligible facility pursuant to this section shall be placed in a special account, the funds of which shall be used exclusively for the payment of expenses related to the eligible capital project.

(j) (1) The department shall promptly seek any necessary federal approvals for the implementation of this section. If necessary to obtain federal approval, the department may, for federal purposes, limit the program to those costs that are allowable expenditures under Title XIX of the federal Social Security Act (Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code). If federal approval is not



obtained for implementation of this section, this section shall become inoperative.

(2) The department shall submit claims for federal financial participation for the expenditures for debt service that are allowable expenditures under federal law.

(3) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(k) Supplemental reimbursement paid under this section shall not duplicate any reimbursement received by an eligible facility pursuant to this chapter for construction costs that would otherwise be eligible for reimbursement under this section. In no event shall the total Medi-Cal reimbursement pursuant to this chapter to a facility eligible under this section be less than what would have been paid had this section not existed.

(l) In the event there is a final judicial determination by any court of appellate jurisdiction or a final determination by the administrator of the federal Health Care Financing Administration that the supplemental reimbursement provided in this section must be made to any facility not described therein, this section shall become immediately inoperative.

(m) Any and all funds expended pursuant to this section shall be subject to review and audit by the department.

Approved _____, 1999

Governor

